

Appl. No. 10/657,547  
Amdt. dated Oct. 27, 2004  
Reply to Office Action of Jul. 27, 2004

### REMARKS/ARGUMENTS

Entry of this amendment and reconsideration of the present application, as amended, are respectfully requested.

Claims 1-10, 14 and 18-23 are pending in this application.

Claims 4, 9 and 14 are amended herein. Claim 4 is amended for clarification purposes. Claim 9 is amended to include the subject matter of claim 11. Claim 14 is amended to include the subject matter of claim 15. As such, the changes to the claims do not raise new issues. Also, unless an argument is made below relating to a particular change to one of the claims to overcome a prior art rejection, these changes to the claims do not relate to patentability.

### Claim Rejections – 35 U.S.C. §102

Claims 1-23 are rejected under 35 U.S.C. §102(e) as being anticipated by RE 38,400 to Kowall et al. The Examiner takes a position that it would have been obvious to modify the lift gate of Kowall et al. from a vertical disposed operating position to a transverse lateral operating position.

The Examiner's rejection is respectfully traversed on the grounds that Kowall et al. does not disclose apparatus and methods including all of the features of independent claims 1, 5, 9, 14, 18, 19, 22 and 23.

#### Claims 1 and 5

With respect to claims 1 and 5, it is respectfully submitted that it is not obvious to modify the lift gate of Kowall et al. for transverse lateral operation. Kowall et al. relates uniquely to a lift gate which pivots about a horizontal axis. This pivoting movement would have to be retained in any "mere reversal in orientation of the essential working parts of a device" as asserted by the Examiner.

By contrast, the claimed embodiments of the invention relate to a door which moves "in a lateral direction" alongside a door frame such that a space between a lateral edge of the door and the edge of the frame varies, i.e., a sliding door (see Fig. 40). Regardless of its orientation, the lift gate of Kowall et al. must maintain its pivoting movement and thus would not move in a lateral direction alongside a door frame.

The Examiner also mentions other types of rear deck lids or tailgates such as those on station wagons. However, none of these appears to move alongside the door frame but rather, the described station wagon lift gates have a lower portion which pivots outward about a vertical axis and an upper portion which pivots upward about a horizontal axis. Neither portion moves alongside a door frame. The Examiner's reference to possible uses of the embodiment shown in Fig. 12 is directed to that embodiment

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in which the door pivots relative to the door frame and other related pivoting embodiments, but the embodiment shown in Fig. 24 does not involve a pivoting door but rather a sliding door.

In view of the fundamental difference between the pivoting door of Kowall et al. and the sliding door of the invention, one skilled in the art could not modify the lift gate of Kowall et al. in order to arrive at the embodiments of the invention set forth in claims 1 and 5 and claims 2-4, 6-8, 20 and 21 which depend therefrom.

Claims 4, 8, 22 and 23

Claim 4 includes the feature of the detecting means for detecting resistance to opening movement of a door comprising a pressure sensor arranged on the door and having a pressure sensitive surface "oriented in the direction in which said door moves laterally during the opening movement of said door". Claim 8 includes a similar feature. Similarly, claim 22 includes the feature of detecting means comprising a pressure sensor arranged on a door and having a pressure sensitive surface oriented in the direction of opening of the door such that by touching the pressure sensitive surface, resistance is applied to the door causing the opening movement of the door to be stopped. Claim 23 also includes the similar feature of detecting resistance to opening movement of a door by arranging a pressure sensor on the door and providing the pressure sensor with a pressure sensitive surface oriented in the direction of opening of the door such that by touching the pressure sensitive surface, resistance is applied to the door causing the opening movement of the door to be stopped.

These embodiments relate to the embodiment shown in Fig. 24 wherein a pressure sensor 40 is arranged along the edge of the door which is the forward edge during the opening movement of the door. The application of pressure to sensor 40 is effective to stop the opening movement of the door (see the specification at page 35, lines 22-24).

Kowall et al. describes a switch 116 which is actuated to start the opening or closing movement of the lift gate 14. Switch 116 is arranged in the passenger compartment of the vehicle and is manually accessible to the driver.

Kowall et al. does not describe any pressure sensor having a pressure sensitive surface which is used to cause a motor to stop operating and thus stopping opening movement of a laterally moving door. Rather, Kowall et al. describes stopping the motor based only on the excessive speed of the motor, excessive current flowing through the motor or the rate of change of the lift gate.

Since Kowall et al. does not disclose a pressure sensor as set forth in claims 4, 22 and 23, it cannot anticipate or render obvious the embodiments of the invention set forth in these claims.

Claims 3, 7, 9 and 14

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Claim 7 is directed to a method for enabling a door to be opened to any one of a plurality of different and includes detecting the resistance to opening movement of the door by arranging a sensor in connection with the motor and which is arranged to measure torque on the motor. Similarly, claim 3 include the feature of the detecting means detecting torque on the motor, claim 9 includes the feature of monitoring the torque on the motor during an opening and closing movement of the door and claim 14 includes the feature of a torque sensor for measuring the torque on the motor during an opening and closing movement of the door.

In these embodiments, the torque on the motor is detected, measured or monitored, possibly for analysis relative to a threshold to determine whether the motor should be stopped (claims 7, 9 and 14).

Kowall et al. describes three ways to detect an obstruction via obstruction circuit 108, namely, measuring the speed of the motor, the current flowing through the motor or the rate of change of the lift gate. None of these methods involve measuring or monitoring the torque on the motor, and are different methods for determining obstructions in the path of the door.

Since Kowall et al. does not disclose, teach or suggest detecting, measuring or monitoring torque on a motor as set forth in claims 3, 7, 9 and 14, it cannot anticipate or render obvious the embodiments of the invention set forth in these claims.

#### Claims 18 and 19

Claim 18 is directed to a method for controlling opening and closing of a vehicle door in which the presence of an individual authorized to open the door and enter the vehicle is detected by arranging a sensor on the vehicle to cause a radio frequency identification device (RFID) to emit a signal back to the sensor with the signal emission being indicative of the presence of the authorized individual. Similarly, claim 19 includes the feature of a sensor for detecting the presence of an individual authorized to open the door and enter the vehicle and which is arranged to generate a signal upon the detection of the presence of an authorized individual or an object possessed by the authorized individual. The sensor causes a radio frequency identification device (RFID) to emit a signal back to the sensor with the signal emission being indicative of the presence of the authorized individual.

The Examiner points out that Kowall et al. describes a conventional key fob.

In contrast to Kowall et al., the sensor in accordance with the invention differs from a conventional key fob in that depression of a button by the driver is not required. The recognition of the presence of an authorized individual to operate the vehicle is automatic in the invention since a key fob used with the invention would include an RFID sensor which is triggered by the sensor to emit a signal

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toward the vehicle. There is no user involvement. The mere presence of the RFID in the sensing range of the sensor causes the RFID to emit a signal, without any need for the user to press a button or the like.


Thus, Kowall et al. does not disclose, teach or suggest a sensor or a detection step as set forth in claims 18 and 19 and therefore cannot anticipate or render obvious the embodiments of the invention set forth in these claims.

In view of the arguments presented above, it is respectfully submitted that the Examiner's rejection of claims 1-23 as being unpatentable over Kowall et al. has been overcome and should be removed and that the present application is now in condition for allowance.

If the Examiner should determine that minor changes to the claims to obviate informalities are necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

An early and favorable action on the merits upon entry and consideration of this amendment is earnestly solicited.

FOR THE APPLICANT  
Respectfully submitted,

  
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